# Subject Matter Index

Affidavits formal requirements 28	Child protective proceedings 87
initiation of proceedings 27 personal knowledge of facts 28 service 29 waiver of defects 28, 46	Child support ability to pay 65–69 failure to pay 41–44, 62–70 modification of support order 70 right to counsel 64
Anticipatory contempt 11	sanctions 65
Appeals 45	use of contempt power to enforce 62
standard of review 46 superintending control 45 waiver of issues 46	Civil contempt ability to pay damages 40 attorney for complainant 26
Attorney fees 40	commitment orders 45
Attorney for alleged contemnor 22, 26, 64	conditional incarceration 37 cumulative punishment 38
Attorney for complainant 25–26 civil contempt 26 domestic relations actions 26 nuisance actions 26 personal protection orders 26  Attorneys failure to appear in court 52–54 misconduct in courtroom 51–52 notice to State Bar and Supreme Court of contempt citation 45 violation of discovery orders 80 zealous representation of client 51–52  Bench warrants 30	disobedience of court order 57, 59 distinguishing from criminal contempt 9–11 elements 19–20 excessive fines 37 failure to pay child or spousal support 69–70 grand jury witness's refusal to testify 77 intent 13 present violation of court order required 11, 57 primary interested party 14 purging contempt 16 purpose of sanctions 12 restoration of status quo ante 15 sanctions 12 standard of proof 14, 23 suspension of fines 37 violation of parenting time order 72
Binding and gagging criminal defendant 74	Contempt of court
Bond 31	defined 1
assignment 31, 44 sureties 31	requirements for contempt order 45
3u16u63 <b>0</b> 1	Contempt power courts of record 5

C

A

Contempt power (continued) inherent authority of courts 2–3	per diem damages 40 proving loss or injury 39
purposes 1 quasi-judicial officers 6–7 statutory provisions 3–5	Defendant's misconduct in courtroom 73–74 binding and gaging defendant 74 right to be present during trial 73
Costs of court proceedings 40	Defenses
Court orders failure to obey 56–59	reasonable opportunity to prepare 22, 25
injunctions 59 obedience of incorrect orders 57	Deferred proceedings 24 disqualification of judge 32
reliance on attorney's advice to disobey 59 violation by fiduciary 85	Direct contempt 17–19, 22 deferred proceedings 24
Courts of record 5	immediate view and presence 17–19 judge 32
Criminal contempt alternative jail sentence 38 attorney's failure to appear 54 cumulative punishment 38 disobedience of court order 57, 59 distinguishing from civil contempt 9–11 double jeopardy 47 Due Process requirements 23, 25 elements 19–20 excessive fines 37 failure to abate nuisance 60 failure to pay child or spousal support 69–70 fines 33 intent 14 presumption of innocence 23	prosecution of action 25 refusal of witness to testify 76 use of summary proceedings 23–24
	Discovery failure to obey order 41, 79–80 refusal to submit to paternity test 80
	Disqualification of judge 31–33 publication of comments concerning judge 33
	Domestic relations proceedings bench warrants 30 orders to show cause 29 prosecution of action 26
	Double jeopardy 47–48
primary interested party 15	Dougherty, In re Contempt of 10–12
privilege against self-incrimination 23 prosecution of actions 26 purging contempt 16 purpose of sanctions 12 right to jury trial 33	Due Process requirements 22–23, 25 summary proceedings 24
	E
sanctions 13	Evidence, rules of 33
standard of proof 14, 23 violation of parenting time order 72	F
Criticism of court 81–82 freedom of speech 81	False pleadings 78–79 indirect contempt 79
D	Fiduciaries violation of court orders 85
Damages 36, 39–40 ability to pay 40 allegations in affidavit 29 assignment of bond 44 attorney fees 40 costs of court proceedings 40	Findings and conclusions 45  Fines criminal contempt 33 excessive 13

G	contempt power 61
Grand jury witnesses refusal to testify 76–78	use of contempt power to enforce 60–62
Habeas corpus, writs of 30	Notice charges 22, 25, 29 civil or criminal proceedings 21–22 waiver 28
Indirect contempt 19, 22, 25 attorney's failure to appear 53 failure to obey subpoena 55 filing false pleadings 79 judge 32 rules of evidence 33	Nuisance abatement proceedings 59 bench warrants 30 prosecution of action 26 sanctions 44  P
Initiation of proceedings 27–28 judicial notice of court records 28 waiver of irregularities 28, 46	Parenting time civil or criminal contempt 72 failure to obey order 44, 70–72  Paternity tests
Injunctions 59	refusal to submit 80  Perjury 78–79
Judge disqualification 31–33 findings and conclusions 45 indirect contempt 32 publication of comments concerning judge 33	Personal protection orders orders to show cause 30 prosecution of actions 26 violations 72  Privilege against self-incrimination refusal to testify 76
Judicial notice initiation of proceedings 28  Judicial proceedings interference with 83	Prosecution of actions 25–26 criminal contempt 26 domestic relations actions 26 nuisance actions 26 personal protection orders 26
Jurisdiction 7 juvenile court orders 87	Purging contempt 16
Jurors improper attempts to affect 84–85 misconduct 55	Reimbursement orders failure to obey 87
Jury excusing jury before citing for contempt 52, 76 right to 23, 33	Restraint in use of contempt power 2
Juveniles 86–89 parent's failure to attend hearing 86 proceedings not under Juvenile Code 88–89	Sanctions alternative jail sentence 38 appropriateness of coercive sanctions 11 attorney fees 40

civil contempt 36

 $commitment\ orders\ 45$ 

**Money judgments** rationale for restriction of enforcement through

#### Sanctions (continued)

compensatory sanctions 39-40 conditional incarceration 37 costs of court proceedings 40 criminal contempt 37 cumulative sanctions 38 damages 36 distinguishing civil and criminal contempt 9–10 double jeopardy 47-48 excessive fines 37 failure of grand jury witness to testify 41 failure to abate nuisance 44 failure to obey parenting time order 44 failure to obey subpoena or discovery order 41 failure to pay child or spousal support 41-44, 65 purpose 12 refusal of witness to testify 76 repeated refusal to testify before grand jury 77 statutory limitations 5 suspension of fines 37 types 1-2, 12-13 under Revised Judicature Act 35-36

## Service of process

obstructing 83

#### Show cause, orders to

formal requirements 29 service requirements 29

## Spousal support

ability to pay 65–69 failure to pay 41–44, 62–70 modification of support order 70 right to counsel 64 sanctions 65 use of contempt power to enforce 62

#### Standard of proof 14

civil contempt 23 criminal contempt 23

Standard of review 46

#### Status quo ante

restoration in civil contempt 15

## Subpoena

failure to obey 41, 54-55, 75-76

### Summary contempt proceedings 17–19, 22

deferred proceedings 24
Due Process requirements 24
judge 32
prosecution of action 25

refusal of witness to testify 76 rules of evidence 33 when appropriate 23–24

#### Superintending control

review of refusal to enter contempt order 45

## W

#### Witnesses

failure of grand jury witness to testify 41 failure to obey subpoena 54–55 failure to obey subpoena or discovery order 41 grand jury witness's refusal to testify 76–78 improper attempts to affect testimony 83–84 opportunity to call 22 refusal to answer questions 75–76 sanctions for refusal to testify 76